



BILLING CODE: 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3360-FN]

Medicare and Medicaid Programs; Continued Approval of the Community Health

Accreditation Partner's Hospice Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve the Community Health Accreditation Partner (CHAP) for continued recognition as a national accrediting organization for hospices that wish to participate in the Medicare or Medicaid programs. A hospice that participates in Medicaid must also meet the Medicare Conditions for Participation (CoPs).

DATES: The approval is effective November 20, 2018 through November 20, 2024.

FOR FURTHER INFORMATION CONTACT:

Lillian Williams, (410) 786-8636, or Monda Shaver, (410) 786-3410.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospice, provided certain requirements are met by the hospice. Section 1861(dd) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a hospice. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The

regulations at 42 CFR part 418 specify the conditions that a hospice must meet in order to participate in the Medicare program, the scope of covered services and the conditions for Medicare payment for hospices.

Generally, to enter into an agreement, a hospice must first be certified as complying with the conditions set forth in part 418 and recommended to the Centers for Medicare & Medicaid Services (CMS) for participation by a state survey agency. Thereafter, the hospice is subject to periodic surveys by a state survey agency to determine whether it continues to meet these conditions. However, there is an alternative to certification surveys by state agencies. Accreditation by a nationally recognized Medicare accreditation program approved by CMS may substitute for both initial and ongoing state review.

Section 1865(a)(1) of the Act provides that, if the Secretary of the Department of Health and Human Services (the Secretary) finds that accreditation of a provider entity by an approved national accrediting organization meets or exceeds all applicable Medicare conditions, CMS may treat the provider entity as having met those conditions, that is, we may “deem” the provider entity to be in compliance. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting organization’s approved program may be deemed to meet the Medicare conditions. A national accrediting organization applying for CMS approval of their accreditation program under 42 CFR part 488, subpart A, must provide CMS with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that

are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. Section 488.5(e)(2)(i) requires accrediting organizations to reapply for continued approval of its Medicare accreditation program every 6 years or sooner as determined by CMS. The Community Health Accreditation Partner's (CHAP'S) term of approval as a recognized accreditation program for its hospice accreditation program expires November 20, 2018.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

On June 15, 2018, we published a proposed notice (83 FR 27992) in the **Federal Register** announcing CHAP's request for continued approval of its Medicare hospice accreditation program. In the June 15, 2018 proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of

CHAP's Medicare hospice accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to, the following:

- An onsite administrative review of CHAP's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its hospice surveyors; (4) ability to investigate and respond appropriately to complaints against accredited hospices; and (5) survey review and decision-making process for accreditation.

- A comparison of CHAP's Medicare hospice accreditation program standards to our current Medicare hospice Conditions of Participation (CoPs).

- A documentation review of CHAP's survey process to:

- ++ Determine the composition of the survey team, surveyor qualifications, and CHAP's ability to provide continuing surveyor training.

- ++ Compare CHAP's processes to those we require of state survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against accredited hospices.

- ++ Evaluate CHAP's procedures for monitoring hospices found to be out of compliance with CHAP's program requirements. This pertains only to monitoring procedures when CHAP identifies non-compliance. If noncompliance is identified by a state survey agency through a validation survey, the state survey agency monitors corrections as specified at § 488.9(c).

- ++ Assess CHAP's ability to report deficiencies to the surveyed hospice and respond to the hospice's plan of correction in a timely manner.

- ++ Establish CHAP's ability to provide CMS with electronic data and reports necessary

for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of CHAP's staff and other resources.

++ Confirm CHAP's ability to provide adequate funding for the completion of required surveys.

++ Confirm CHAP's policies to surveys being unannounced.

++ Obtain CHAP's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the June 15, 2018 proposed notice also solicited public comments regarding whether CHAP's requirements met or exceeded the Medicare CoPs for hospices. No comments were received in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between CHAP's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared CHAP's hospice accreditation requirements and survey process with the Medicare CoPs of part 418, and the survey and certification process requirements of parts 488 and 489. Our review and evaluation of CHAP's hospice application, which were conducted as described in section III of this final notice, yielded the following areas where, as of the date of this notice, CHAP has completed revising its standards and certification processes in order to ensure that hospices accredited by CHAP meet the requirements at:

- § 418.64(d)(2), to ensure the dietary needs of patients are met.
- § 418.76(b)(1), to ensure training is conducted by a registered nurse, or a licensed

practical nurse under the supervision of a registered nurse.

- § 418.76(b)(3)(xiii), to ensure that any other task that the hospice may choose to have an aide perform must be included in the content of the hospice aide classroom and supervised practical training.

- § 418.76(d)(1), to ensure that in-service training is supervised by a registered nurse.

- § 418.76(h)(3)(iv) and (v), to address the requirement that the supervising nurse must assess an aide's ability to demonstrate initial and continued satisfactory performance in meeting outcome criteria for the hospice's infection control policy and procedures and for reporting changes in the patient's conditions.

- § 418.76(k)(3), to address the requirement for homemakers to report concerns to the member of the interdisciplinary group who is responsible for coordinating homemaker services.

- § 418.104, to address the requirement allowing medical records to be maintained electronically.

- § 418.110(d)(3), to address the requirement that provisions of the adopted edition of the Life Safety Code do not apply in a state if CMS finds that a fire and safety code imposed by state law adequately protects patients in hospices.

- § 418.113, to ensure compliance with all applicable federal, state, and local emergency preparedness requirements.

- § 488.5(a)(7) through (9), to ensure that new surveyors receive the required initial orientation training, and that all new surveyors receive an evaluation of performance, in accordance with CHAP policies.

- § 488.5(a)(12), to ensure that complaint surveys are conducted in a manner that meets

or exceeds the processes and investigation practices of CMS; that the rationale for the decision whether to conduct an onsite survey or not, is clearly documented in the complaint file, according to CHAP policy; and, to ensure that complaints are closed out properly with appropriate notification to complainants.

B. Term of Approval

Based on our review and observations described in section III of this final notice, we approve CHAP as a national accreditation organization for hospices that request participation in the Medicare program, effective November 20, 2018 through November 20, 2024.

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq).

Dated: November 7, 2018.

Seema Verma,

Administrator,

Centers for Medicare & Medicaid Services.